



0000090404

ORIGINAL

BEFORE THE ARIZONA CORPORATIC

RECEIVED

**COMMISSIONERS**

MIKE GLEASON – Chairman  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
KRISTIN K. MAYES  
GARY PIERCE

2008 NOV 14 P 4: 51

AZ CORP COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

NOV 14 2008

DOCKETED BY

mn

IN THE MATTER OF THE APPLICATION  
OF JOHNSON UTILITIES, L.L.C., FOR AN  
EXTENSION OF ITS SEWER CERTIFICATE  
OF CONVENIENCE AND NECESSITY AND  
TO EXPAND AN EXISTING SERVICE  
AREA

DOCKET NO. WS-02987A-07-0487

NOTICE OF FILING  
COMPLIANCE ITEMS PER  
PROCEDURAL ORDER DATED  
OCTOBER 6, 2008

In compliance with the Procedural Order dated October 6, 2008, in the above-captioned matter, Johnson Utilities, L.L.C., ("JU" or the "Company") hereby submits the following information and documentation:

- A. Requested Information Regarding Skyline Estates, Quail Run Estates and the J.O. Combs Educational Village located in Pinal County, Arizona.

The Procedural Order required JU to file, as late-filed exhibits, sworn and notarized documents from the developers in the proposed sewer extension areas containing information regarding the developers' plans for development within the extension areas including (i) the status of the developers' progress in meeting State and County requirements; (ii) timeframes for building in the proposed developments; and (iii) an explanation of any conservation mechanisms to be employed with the developments, including whether the developments will have golf courses or other large turfed areas, whether groundwater will be used to irrigate those areas, and whether there are any planned lakes or other ornamental water features. JU contacted each of the developers in the proposed extension areas and requested that they return to the Company sworn and notarized documentation as required under the Procedural Order. In response to its requests, JU received the following:

1           1.     A sworn and notarized document from United Engineering Group on  
2     behalf of the developer of Skyline Estates, Skyline & Quail, LLC, a copy of which is  
3     attached hereto as Exhibit A; and

4           2.     Sworn and notarized documents from the J.O. Combs Unified School  
5     District #44 regarding the development of the J.O. Combs Education Village, copies of  
6     which are attached hereto as Exhibit B.

7           The developer of Quail Run Estates has not yet provided the Company with a  
8     sworn and notarized document. However, as soon as JU receives the document, it will  
9     supplement this filing. In the meantime, JU can report that (i) the developer has stated  
10    that Quail Run Estates will not include a golf course, lake or ornamental water feature;  
11    and (ii) construction has not yet commenced at the development. There will be no  
12    effluent used within the development.

13           B.     Status of Notices of Violation Issued by the Arizona Department of  
14                   Environmental Quality ("ADEQ").

15           On March 4, 2008, ADEQ issued a notice of violation (the "March NOV") to JU  
16     for a sanitary sewer overflow ("SSO") from a manhole located upgradient from the  
17     Company's Pecan water reclamation plant ("Pecan WRP"). The March NOV required  
18     that JU take certain actions in response to the SSO. On April 23, 2008, ADEQ sent JU a  
19     letter acknowledging that the Company have achieved compliance with the first two  
20     requirements of the March NOV. On July 11, 2008, JU submitted documentation to  
21     ADEQ demonstrating that the Company had addressed the third requirement of the  
22     March NOV. JU has fully addressed the requirements of the March NOV and is  
23     awaiting written confirmation from ADEQ confirming full compliance.

24           On May 17 and 18, 2008, JU experienced an SSO from a manhole located  
25     upgradient from the Pecan WRP. On July 14, 2008, ADEQ issued Compliance Order P-  
26     57-08 ("Compliance Order") to JU ordering the Company to pump surface water from  
27     an area of Queen Creek wash immediately adjacent to the SSO. JU appealed the  
28     Compliance Order, and following various meetings held with ADEQ personnel, on

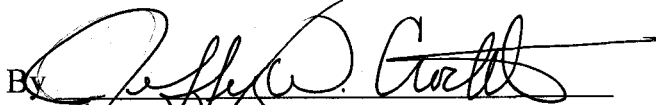
September 13, 2008, JU and ADEQ entered into a Consent Order ("Consent Order") that addressed the issues raised in the Compliance Order. On October 3, 2008, JU submitted to ADEQ a status report in conformance with the Compliance Order certifying that the Company has met all of the requirements of the Consent Order. Although JU has not yet received a written response from ADEQ confirming that JU has fully complied with the Consent Order, the Assistant Attorney General assigned to the case has told counsel for JU that ADEQ agrees that JU has fully complied with the Consent Order. The ADEQ attorney also stated that a letter confirming compliance would be forthcoming.

C. Status Report on the Lawsuit Filed by the Pecan Creek North Homeowners Association.

The Court in the Pecan Creek North North Homeowners Association ("Association") lawsuit has ruled in favor of the Association by terminating an Open Space Lease Agreement between the Association and JU, thereby terminating JU's contractual right to possession of the property for purposes of operating an underground effluent recharge facility. Although the Court entered judgment for the Association on September 19, 2008, it simultaneously entered an Order for Stay Pending Appeal so JU can appeal the judgment while remaining in possession of the lease property, subject to certain conditions. Thereafter, JU filed a condemnation action on August 21, 2008, pursuant to A.R.S. §12-1111 in Pinal County Superior Court against the Association (No. CV 200802685) in order to obtain an easement in the property for operation of the underground recharge facility. The condemnation action is proceeding. A scheduling conference is set for December 2, 2008.

RESPECTFULLY SUBMITTED this 14th day of November, 2008.

SNELL & WILMER

By 

Jeffrey W. Crockett, Esq.

One Arizona Center

Phoenix, Arizona 85004-2202

Attorneys for Johnson Utilities, LLC

1 ORIGINAL and thirteen (13) copies of the fore-  
2 going filed this 14th day of November, 2008, with:

3 Docket Control  
4 Arizona Corporation Commission  
5 1200 W. Washington Street  
6 Phoenix, Arizona 85007

7 COPIES of the foregoing hand-delivered this  
8 14th day of November, 2008, to:

9 Yvette B. Kinsey, Administrative Law Judge  
10 Hearing Division  
11 Arizona Corporation Commission  
12 1200 W. Washington Street  
13 Phoenix, Arizona 85007

14 Janice Alward, Chief Counsel  
15 Legal Division  
16 Arizona Corporation Commission  
17 1200 W. Washington Street  
18 Phoenix, Arizona 85007

19 Ernest G. Johnson, Director  
20 Utilities Division  
21 Arizona Corporation Commission  
22 1200 W. Washington Street  
23 Phoenix, Arizona 85007

24  
25  
26  
27  
28  


CROCKEJ\SWDMS\9268969.1

# **EXHIBIT A**

# J. O. Combs Unified School District #44

301 E. Combs Road  
Queen Creek, AZ 85242

Phone 480-987-5300

Fax 480-987-3487

"Today's Students - - - Tomorrow's Leaders"

Jan Langer, Ed.D., Superintendent

November 12, 2008

Mr. Brian Tompsett  
Johnson Utilities  
5230 E. Shea Blvd. Suite 200  
Scottsdale, Arizona 85254

SUBJ: ACC DOCKET #WS-02987A-07-0487

Mr. Tompsett,

In accordance with the Arizona Corporation Commission's request, as set forth in the Procedural Order dated October 6, 2008, the following information is provided.

The J.O. Combs Unified School District #44 (District) received a Construction Authorization Type 4.01 General Permit from ADEQ on January 22, 2007 to construct a Lift Station and Force Main Sewer System at the J.O. Combs Education Village located in Northwest Quarter of Section 9 Township 2S Range 8E.

The Education Village is comprised of 3 campuses including Ranch Elementary School serving 750 students which opened August 2008, Combs High School serving 1,700 students to open in August 2009 and a future Middle School serving 1,000 students to open in August 2011.

The District has completed the construction of the Lift Station and Force Main and received a Discharge Authorization from ADEQ, file number 20070744, on June 25, 2008 and the system is currently operating and discharging to the Pecan Waste Water Treatment Plant, owned and operated by Johnson Utilities, under a Bulk Wastewater Agreement dated October 2, 2007.

Sincerely,



Karla Slovitsky  
Director of Business Services

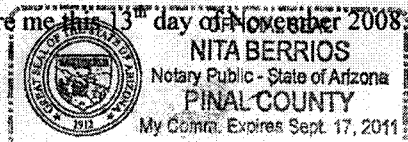


State of Arizona  
County of Pinal

Subscribed and sworn to before me this 13<sup>th</sup> day of November 2008:

Notary Public:

My Commission Expires:



## Governing Board

James Stobaugh, President  
Kathy Bourgeois, Member

Rey Flores, Member

Pat Pinckard, Clerk  
Sandy Throop, Member

# J. O. Combs Unified School District #44

301 E. Combs Road  
Queen Creek, AZ 85242

Phone 480-987-5300

Fax 480-987-3487

"Today's Students - - Tomorrow's Leaders"

Jan Langer, Ed.D., Superintendent

November 12, 2008

Mr. Brian Tompsett  
Johnson Utilities  
5230 E. Shea Blvd. Suite 200  
Scottsdale, Arizona 85254

SUBJ: ACC DOCKET #WS-02987A-07-0487

Mr. Tompsett,

In accordance with the Arizona Corporation Commission's request as set forth in the Procedural Order dated October 6, 2008, the following information is provided.

The J.O. Combs Unified School District #44 (District) received a Construction Authorization Type 4.01 General Permit from ADEQ on January 22, 2007 to construct a Lift Station and Force Main Sewer System at the J.O. Combs Education Village located in Northwest Quarter of Section 9 Township 2S Range 8E.

The District is not employing any conservation mechanisms or the use of reclaimed water for the irrigation of athletic or play fields within the Education Village. The District will irrigate the athletic and play fields with groundwater provided by H2O Inc. The Education Village does not contain a golf course, lake, or ornamental water features.

The District has completed the construction of the Lift Station and Force Main and received a Discharge Authorization from ADEQ, file number 20070744, on June 25, 2008 and the system is currently operating and discharging to the Pecan Waste Water Treatment Plant, owned and operated by Johnson Utilities, under a Bulk Wastewater Agreement dated October 2, 2007.

Sincerely,



Karla Slovisky  
Director of Business Services

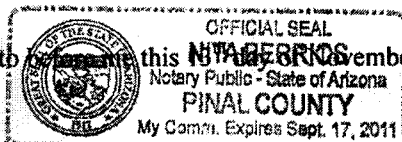


State of Arizona  
County of Pinal

Subscribed and sworn to before me this **NINETEEN** day of **November** 2008.

Notary Public:

My Commission Expires:



## Governing Board

James Stobaugh, President  
Kathy Bourgeois, Member

Rey Flores, Member

Pat Pinckard, Clerk  
Sandy Throop, Member

# **EXHIBIT B**





united  
engineering  
group

November 14, 2008

Johnson Utilities, L.L.C.  
5230 East Shea Boulevard, Suite 200  
Scottsdale, AZ 85254

**RE: CC&N Extension (Docket No. WS-02987A-07-0487) – Response to Arizona  
Corporation Commission (ACC) Procedural Order dated October 6, 2008**

To Whom It May Concern:

In Docket No. WS-02987A-07-0487, Johnson Utilities, LLC, (JU) requested an extension of its Certificate of Convenience and Necessity (CC&N) for sewer to include, among other property, the 290-acre parcel to be developed as Skyline Estates. In a Procedural Order dated October 6, 2008, the Arizona Corporation Commission's Administrative Law Judge (ALJ) requested a sworn and notarized document from the developer of Skyline Estates addressing the following: (i) the status of the developer's progress in meeting State and County requirements; (ii) timeframes for building in the Skyline Estates development; and (iii) an explanation of any conservation mechanisms to be employed within the development, including whether the development will have golf courses or other large turfed areas, whether groundwater will be used to irrigate those areas, and whether there are any planned lakes or other ornamental water features. This letter is in response to the ALJ's request.

Skyline Estates is a 290-acre site planned to include 1,017 single-family residential lots. United Engineering Group has been working with Pinal County, state agencies, and utility companies to obtain the necessary approvals and/or agreements required to develop the subject property. The following is a summary of tasks completed, status of pending tasks, and responses to the specific requests contained in the ALJ's Procedural Order.

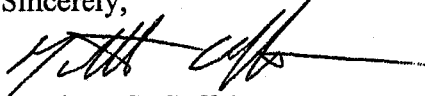
- Planned Area Development (PAD) Zoning was established for the property through approval from Pinal County. Approval was obtained in June 2005.
- Tentative Plat approval was obtained through Pinal County for 1,017 single-family residential lots. Approval was originally obtained in August 2005. A revised Tentative Plat was approved by Pinal County staff in April 2006. Tentative Plat approval is currently valid until August 18, 2009.
- Significant coordination, planning, and design have been completed in an effort to finalize Final Plats, Onsite Improvement Plans, and Offsite Infrastructure Plans. However, final approvals from Pinal County cannot be obtained until the Skyline Estates development is within a wastewater provider's CC&N area. Additionally, the necessary

ADEQ approvals also cannot be obtained until within a wastewater provider's CC&N area.

- Final Plat and Improvement Plans for Parcel 1.1 (refer to the attached Skyline Estates Phasing Plan) were submitted to Pinal County for review in April 2007 – review currently on hold.
  - Final Plats and Improvement Plans have been completed for Parcel 1.2 & 1.3, with submittal to Pinal County on hold until Parcel 1.1 is approved.
  - Offsite Infrastructure Plans, including Sewer Lift Station and Force Main Plans, have been completed and submitted to JU for review and approval – review currently on hold.
- Skyline Estates is currently within the certified service area of Diversified Water Company. Service agreements have been established with Diversified Water Company, with a well site located within the development. The Skyline Estates development has obtained a 100-year Certificate of Assured Water Supply (CAWS). Golf courses, lakes, significant water features, or the use of reclaimed water are not planned for the Skyline Estates development.
- Currently, it is difficult to predict an exact timeline for construction to begin on the several phases of Skyline Estates, due to uncertainties on the timing of the subject CC&N extension, timing of subsequent approvals that are required once a CC&N area has been established, and questions regarding the stability of the housing market. Based on the assumption that the CC&N extension will be approved by May 2009, the following is an estimated timeline for completion of the Skyline Estates development:
  - Final approvals for Parcel 1.1 – December 2009
  - Begin Construction of Parcel 1.1 – April 2010
  - Build-out of Parcel 1.1 – November 2012 (242 lots)
  - Begin Construction of Parcel 1.2 – August 2012
  - Build-out of Parcel 1.2 – August 2013 (102 lots)
  - Begin Construction of Parcel 1.3 – April 2013
  - Build-out of Parcel 1.3 – April 2014 (109 lots)
  - Begin Construction of Parcel 2.1 – January 2014
  - Build-out of Parcel 2.1 – January 2015 (108 lots)
  - Begin Construction of Parcel 2.2 – September 2014
  - Build-out of Parcel 2.2 – August 2015 (86 lots)
  - Begin Construction of Parcel 2.3 – May 2015
  - Build-out of Parcel 2.3 – November 2016 (178 lots)
  - Begin Construction of Parcel 2.4 – July 2016
  - Build-out of Parcel 2.4 – January 2018 (192 lots)
  - Complete Build-out by January 2018 (1,017 lots)
- In order for the Skyline Estates development to move forward, the key factor is being included in a wastewater provider's CC&N area.

United Engineering Group is an authorized agent for the developer/owner (Skyline & Quail, LLC) of Skyline Estates. Please do not hesitate to contact me (Matthew Coffelt @ 480-305-8420) with any questions or concerns. Thank you.

Sincerely,


  
Matthew G. Coffelt  
Project Manager

STATE OF ARIZONA       )  
                                      )  
County of Maricopa       )       ss

On this 14 day of November, 2008, before me, the undersigned Notary Public, personally appeared Matthew G. Coffelt, known to me to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged that he executed the same.

IN WITNESS WHEREOF, I hereto set my hand and official seal.

My commission expires: 9/5/2011

  
\_\_\_\_\_  
Notary Public

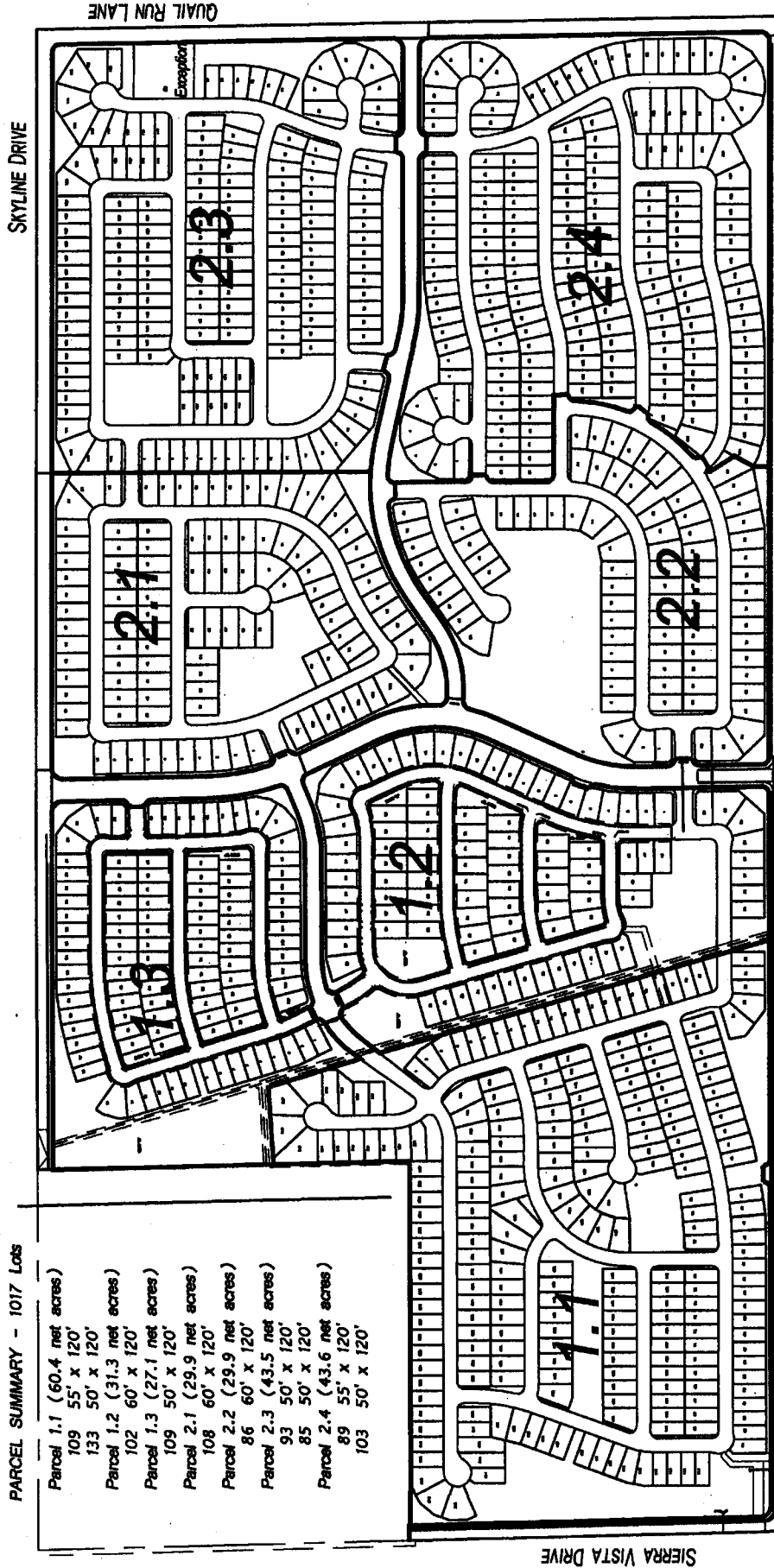


# SKYLINE ESTATES PHASING EXHIBIT

PINAL COUNTY, ARIZONA

## PARCEL SUMMARY - 1017 Lots

- Parcel 1.1 (60.4 net acres)  
109 55' x 120'  
133 50' x 120'
- Parcel 1.2 (31.3 net acres)  
102 60' x 120'
- Parcel 1.3 (27.1 net acres)  
109 50' x 120'
- Parcel 2.1 (29.9 net acres)  
108 60' x 120'
- Parcel 2.2 (29.9 net acres)  
86 60' x 120'
- Parcel 2.3 (43.5 net acres)  
93 50' x 120'  
85 50' x 120'
- Parcel 2.4 (43.6 net acres)  
89 55' x 120'  
103 50' x 120'



QUAIL RUN LANE

SKYLINE DRIVE

SIERRA VISTA DRIVE

JENNINGS STREET

Existing  
Gas Easement

Exception